

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Numbering Resource Optimization</b>	)	<b>CC Docket No. 99-200</b>
	)	
<b>Implementation of the Local Competition</b>	)	<b>CC Docket No. 96-98</b>
<b>Provisions of the Telecommunications</b>	)	
<b>Act of 1996</b>	)	
	)	
<b>Telephone Number Portability</b>	)	<b>CC Docket No. 95-116</b>
	)	

**COMMENTS OF VOICESTREAM WIRELESS CORPORATION**

VoiceStream Wireless Corporation (“VoiceStream”)<sup>1</sup> respectfully submits these Comments pursuant to the invitation extended by the Commission in the Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and the Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116.<sup>2</sup> These further notices of proposed rulemaking were promulgated on the Commission’s own motion, as a consequence of its decision in the Third Order on Reconsideration to reverse a

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<sup>1</sup> VoiceStream, combined with Powertel, Inc., is the sixth largest national wireless provider in the U.S with licenses covering approximately 96 percent of the U.S. population and currently serving over seven million customers. VoiceStream and Powertel are wholly-owned subsidiaries of Deutsche Telekom, AG and are part of its T-Mobile wireless division. Both VoiceStream and Powertel are, however, operated together and are referred to in these comments as “VoiceStream.”

<sup>2</sup> *Numbering Resource Optimization*, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, FCC 02-73, released March 14, 2002, hereinafter simply referred to singularly as the “Further Notice.” A summary of the proposed rules was published in the Federal Register on April 5, 2002 (67 Fed. Reg. 16347).

clarification concerning the scope of local number portability (“LNP”) deployment in the nation’s 100 largest Metropolitan Statistical Areas (“top 100 MSAs”).<sup>3</sup> Hence, the Commission seeks comment on two main subjects: (1) whether carriers should be required to participate in thousand-block number pooling and deploy LNP in the top 100 MSAs regardless of whether a carrier has received a bona fide request (“BFR”) for portability from another carrier and (2) whether the list of top 100 MSAs should include additional MSAs.

**A. Thousand-Block Number Pooling**

VoiceStream has been an active supporter of thousand-block number pooling, primarily because of the significant number conservation benefits that can be derived from its implementation. In this connection, VoiceStream’s Director of Numbering Policy serves in a leadership position on the WNPSC Pooling Task Force, actively working to facilitate the participation of covered CMRS carriers in thousand-block number pooling by the November 24, 2002 deadline.

In the portion of the Further Notice concerning thousand-block number pooling, the Commission, after indicating that “full” LNP capability is not a prerequisite for thousand-block pooling, states a tentative conclusion that the pooling requirement should be extended to all carriers, whether or not they are required to provide number portability. VoiceStream is puzzled by the tentative conclusion because it could be construed as a statement that Location Routing Number (LRN) infrastructure is not necessary for the implementation of thousand-block pooling. To the contrary, whatever it is called --

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<sup>3</sup> The clarification appeared in *Numbering Resource Optimization*, Third Report and Order and Second Order on Reconsideration in CC Docket No. 99-200, FCC 01-362, December 28, 2001, at para. 125, hereinafter referred to as the “Third Report and Order.”

whether simply LRN, or “partial” LNP -- the fact remains that a carrier must have LRN network architecture to participate in thousand-block number pooling. Quite simply, there must be LNP query software loaded at the switch in order for that switch to be able to properly terminate calls to a pooled telephone number. To this extent, an LNP-capable switch is a prerequisite for thousand-block number pooling.<sup>4</sup>

VoiceStream notes that considerable public and private resources were devoted during the earlier course of Docket No. 95-116 to the question of which architecture should be selected to support thousand-block number pooling. At the conclusion of that portion of the proceeding, the LRN methodology that also supports number portability was selected as the thousand-block pooling infrastructure. We urge the Commission to carefully review the record of Docket No. 95-116 before reaching any conclusion that thousand-block number pooling could be supported without LRN infrastructure.<sup>5</sup>

As a general matter, all other things being equal, VoiceStream believes that if a switch serving an area is LNP capable, then the carriers serving that area should participate in thousand-block pooling, since pooling presents significant opportunities for number conservation. Since all other things are not always equal, VoiceStream

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<sup>4</sup> Because clarity on the topics of pooling and porting is critical, VoiceStream urges the Commission to consider that “full” LNP capability consists of two things: LRN network requirements and OSS intercarrier communication requirements. Very briefly, it is problems with the latter, not the former, that cause VoiceStream and others to urge forbearance and/or a significant transition period with respect to LNP while going forward promptly with thousand-block number pooling. The LRN network infrastructure includes LNP query software in the MSCs and an LNP database usually provided via an LSMS. In support of our contention that pooling does indeed require the LRN portion of LNP functionality, we call attention to footnote 16 of the FNPRM, where the Commission correctly observes that the pooling requirement would not be extended to paging carriers. Throughout the Docket Nos. 95-116 and 99-200 proceedings, the Commission has noted the inability of paging switches to accommodate LNP software (as well as the fact that they ordinarily do not originate traffic) and the highly competitive nature of the paging market. Consequently, the Commission affirmed that it would not subject paging to the requirement for thousand-block pooling.

<sup>5</sup> Docket No. 95-116 noted interoperability problems if methods other than LRN were to be employed.

recognizes that, for many small and rural carriers, the costs of achieving LRN-LNP capability and thus participating in thousand-block pooling may significantly exceed the number conservation benefits to be obtained. In response to the Commission's question concerning the impact of the pooling requirement on small carriers, VoiceStream supports exempting small carriers, or classes of carriers from the thousand-block pooling requirement. For example, if a rate center is served by a single carrier, there are no number conservation benefits to pooling, and the carrier should be entitled to opt-out on its own motion.

**B. Addition of MSAs to the "Top 100 MSA" List**

VoiceStream supported the clarification provided by the Commission in the *Third Report and Order* which extended the scope of portability to MSAs beyond the original list of largest 100 MSAs, as well as the clarification that LNP and thousand-block pooling requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a specific request (known as a *bona fide* request or "BFR") to provide LNP from another carrier. In the *Second Report and Order* in CC Docket No. 99-200, the Commission had mandated that carriers required to be LNP-capable must also be capable of participating in pooling in the top 100 MSAs.

VoiceStream supported the clarification, and now objects to the Commission's newly announced reversal, on two grounds. First, the larger the scope of national pooling, the greater the number conservation benefits to be obtained. Second, a decision to return to the need for BFRs will cause covered CMRS carriers to be non-compliant

with the nine-month lead-time required by the Commission.<sup>6</sup> With the pooling deadline of November 24, 2002, the nine-month lead-time would have required BFRs to be submitted by February 24, 2002 (more than two months ago). It should be noted that the covered CMRS industry generally supported the “no need for BFRs” clarification because it eliminated the need for bushels of paperwork as BFRs would have had to be exchanged between every porting carrier in the top 100 MSAs. Indeed, at the April 2002 meeting of the Wireless Number Portability Operations (WNPO) Team in Kansas City, it was agreed by the participating carriers that they would open to portability all their switches serving the Commission’s expanded list of top 100 MSAs without a prerequisite BFR. This action was taken by WNPO in light of the uncertainties highlighted by the Further Notice as well as the need to meet industry LNP milestones for the November 24, 2002 deadline.

VoiceStream believes that expansion of the top 100 MSA list to include the additional 21 MSAs that now meet the “top 100 MSA” criteria provides appropriate recognition to the changing markets and population dynamics of the United States.<sup>7</sup> Using the expanded list is a recognition of new markets. Further, VoiceStream emphasizes that, as long as the Commission permits small carriers to opt-out of pooling, then any deleterious effects of expanding the top 100 MSA list can be remedied.

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<sup>6</sup> Docket No. 95-116 required that a carrier notify another carrier of its intent to port with them (BFR) nine months in advance of the date porting was requested to begin. This advance notification gave all carriers an opportunity to decide who they wanted to port with and, importantly, a notification of with whom they would have to do intercarrier communications.

<sup>7</sup> The creation of CMSAs by the Census Bureau allowed for the consolidation of once stand-alone MSAs. For example, Baltimore, MD was traditionally a stand alone MSA. With the advent of CMSAs, the Baltimore MSA is now part of the Washington-Baltimore, DC-MD-VA-WV CMSA. The contraction of the top 100 now places MSAs, such as Boise, ID, Spokane, WA, and Jackson, MS on the Year 2000 census top 100 MSA list. *See* Appendix D, Third NRO Order. For clarity, we urge the Commission to call the newly expanded list, which now has 121 MSAs and may acquire more over time, simply as the “Big List.”

## CONCLUSION

The Commission should very carefully review the Further Notice's broadly stated tentative conclusion that pooling should be required without regard to LNP capability. Instead, the Commission should clarify that LRN architecture is the foundation for pooling capability. In areas where small carriers can show that the costs of pooling exceed the benefits, pooling should not be required. This is particularly applicable in rate centers served by a single carrier where there would be no number conservation benefits to be derived from pooling. The Commission's relatively recent expansion of the top 100 MSA list is a reasonable accommodation of today's market and demographic realities.

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This is clearly more descriptive of what the Commission is actually proposing. This will remove confusion caused by continuing to call the expanded list by its old name – Top 100 MSAs.

So long as small/rural carriers have an opt-out ability, the Commission should expand the list as proposed and thus bring the number conservation benefits of pooling to a larger portion of the nation. Finally, the Commission should not return to a regime where the exchange of BFRs is required – this is an unnecessary paperwork burden that interferes with the timely completion of the portability milestones by CMRS carriers.

Respectfully submitted,

**VoiceStream Wireless Corporation**

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